

untaxed tobacco products, as those terms are defined in section 1 of chapter 64C, have been seized from the licensee's business premises during a five-year period, or (v) the licensee has refused to permit, hindered or obstructed an examination, investigation, or search authorized by section 5 or section 11 of chapter 64C, or (vi) the commissioner has received notice from another state or municipal agency, board or law enforcement official that the licensee has been fined, cited or otherwise penalized by a state or municipal agency board or law enforcement official (a) for the sale of tobacco products to a person under the minimum legal sales age, or (b) for any other violation of the laws or regulations of the commonwealth regarding tobacco, on three or more occasions during ~~the a~~ five-year period and that any administrative remedies available to the licensee have been exhausted or have expired.

[XX] Section 68 of chapter 62C, as so appearing, is hereby further amended by inserting after paragraph (6) the following paragraph:

The commissioner may suspend or revoke the appointment of a stamper, as defined in section 1 of chapter 64C, for any of the reasons set forth in paragraphs (1) through (6) above, and for any of the reasons set forth in chapter 94F, §5(b), and for the willful use or operation of stamping equipment in any manner that violates instructions prescribed in writing by the commissioner.

[XX] Section 68 of chapter 62C, as so appearing, is hereby further amended by striking out the final paragraph, as inserted by section 69 of chapter 46 of the acts of 2015, and inserting in place thereof the following paragraph:

The commissioner shall provide notice to the director of the state lottery of a retailer or a cigar retailer, as defined in section 1 of chapter 64C, whose license, issued under

admission relates to tobacco products, or any violation of law involving dishonesty or fraud, within a five-year period in the case of a misdemeanor or within a ten-year period in the case of a felony, or (ii) the commissioner has assessed against said licensee a civil penalty, which has been finally determined to be due, for the violation of any provision of chapter 64C providing for a civil penalty on three or more occasions during a five-year period, or (iii) unstamped cigarettes have been seized from the licensee's business premises on three or more occasions during a five-year period, or (iv) an aggregate total of fifty packs of unstamped cigarettes or one thousand units of untaxed tobacco products, as those terms are defined in section 1 of chapter 64C, have been seized from the licensee's business premises during a five-year period, or (v) the licensee has refused to permit, hindered or obstructed an examination, investigation, or search authorized by section 5 or section 11 of chapter 64C, or (vi) the commissioner has received notice from another state or municipal agency, board or law enforcement official that the licensee has been fined, cited or otherwise penalized by a state or municipal agency board or law enforcement official (a) for the sale of tobacco products to a person under the minimum legal sales age, or (b) for any other violation of the laws or regulations of the commonwealth regarding tobacco, on three or more occasions during ~~the~~ a five-year period and that any administrative remedies available to the licensee have been exhausted or have expired.

(5) The licensee or registrant has otherwise willfully failed to comply with any provision of the tax laws of the commonwealth or regulations thereunder; or

(6) The licensee or registrant has ceased to act in the capacity for which the license or registration was issued.

substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in clause (1).

"licensed", licensed as a manufacturer, wholesaler, cigar distributor, vending machine operator, unclassified acquirer, cigar retailer or retailer pursuant to section sixty-seven of chapter sixty-two C;

"licensee", a person licensed as a manufacturer, wholesaler, cigar distributor, vending machine operator, unclassified acquirer, cigar retailer or retailer pursuant to section sixty-seven of chapter sixty-two C.

"manufacturer", any person who manufactures or produces cigarettes or smokeless tobacco, whether within or without the commonwealth;

"other tobacco products", any product containing tobacco, other than cigarettes, and including without limitation cigars, smoking tobacco, and smokeless tobacco.

"person", any individual, firm, fiduciary, partnership, corporation, trust or association, or other legal entity however formed, club, trustee, agency or receiver;

"place of business" shall mean and include any place where tobacco products are sold or offered for sale or where tobacco products are brought or kept for the purpose of sale or consumption⁷, including so far as applicable any vessel, vehicle, airplane, train or cigarette vending machine.

"premises" or "business premises" shall mean and include any "place of business" and in addition any place where tobacco products are placed or stored.

"retailer", any person who operates a store or concession for the purpose of making sales of tobacco products at retail, including any cigar retailer and any person selling tobacco products through vending machines;

"sales" or "sale" in addition to their ordinary meaning shall include or apply to use, gifts, exchanges and barter;

"smokeless tobacco" shall mean snuff, snuff flour and any other tobacco or tobacco product prepared in such manner as to be suitable for chewing or being placed in the oral or nasal cavity or otherwise consumed without being combusted, including, but not limited to cavendish, plug, twist and fine-cut tobaccos.

"smoking tobacco", roll-your-own tobacco and pipe tobacco, leaf tobacco including blunt wraps, and other kinds and forms of tobacco suitable for smoking, but shall not include tobacco contained in cigarettes or cigars. For purposes of this definition, "blunt wrap" shall mean any product manufactured or packaged as a wrap or as a hollow tube made wholly or in part from tobacco that is designed or intended to be filled by the consumer with loose tobacco or other fillers.

~~**"smokeless tobacco"** shall mean snuff, snuff flour and any other tobacco or tobacco product prepared in such manner as to be suitable for chewing or being placed in the oral or nasal cavity or otherwise consumed without being combusted, including, but not limited to cavendish, plug, twist and fine-cut tobaccos.~~

"stamp", an adhesive stamp, or any other indicia of tax paid under this chapter, as may from time to time be determined and approved by the commissioner.

64C, §5A - Collection of excises imposed on residents purchasing cigarettes and tobacco products in interstate commerce; statements of sellers and shipping invoices

[XX] Section 5A of chapter 64C, as appearing in the 2014 Official Edition, is hereby amended by striking out subsection (1) and inserting in place thereof the following:

(1) Residents of the commonwealth shall be liable for any excise due under this chapter with regard to any tobacco products that they purchase upon which such excise has not otherwise been paid to the commonwealth. The department shall aggressively seek to collect all excises imposed by this chapter from residents of the commonwealth who purchase tobacco products in interstate commerce. The department shall, pursuant to 15 U.S.C. section 376, seek statements from persons selling cigarettes and smokeless tobacco, as those terms are defined in 15 U.S.C. ~~376~~375, in interstate commerce to residents of the commonwealth and obtain the monthly invoices covering all such shipments into the commonwealth, as required by said section 376. Those invoices shall, as authorized by said section 376, include the name and address of the person to whom the shipment was made, the brand, the quantity thereof, and the amount paid. Upon receipt of that information, the department shall make all reasonable efforts to collect all excises due under this chapter.

[XX] Section 5A of chapter 64C, as so amended, is hereby further amended by striking in line 16 the words:

"every 6 months"

and by inserting in place thereof the word:

"annually"

So that the section as amended shall read:

Section 5A. (1) Residents of the commonwealth shall be liable for any excise due under this chapter with regard to any tobacco products that they purchase upon which such excise has not otherwise been paid to the commonwealth. The department shall aggressively seek to collect all excises imposed by this chapter from residents of the commonwealth who purchase tobacco products in interstate commerce. The department shall, pursuant to 15 U.S.C. section 376, seek statements from persons selling cigarettes and smokeless tobacco, as those terms are defined in 15 U.S.C. ~~376~~³⁷⁵, in interstate commerce to residents of the commonwealth and obtain the monthly invoices covering all such shipments into the commonwealth, as required by said section 376. Those invoices shall, as authorized by said section 376, include the name and address of the person to whom the shipment was made, the brand, the quantity thereof, and the amount paid. Upon receipt of that information, the department shall make all reasonable efforts to collect all excises due under this chapter.

(2) The department shall provide information received pursuant to this section to the department of public health. The department shall report annually to the house and senate committees on ways and means and the joint committee on health care on the steps taken to enforce this section and the amounts collected pursuant to collection activities mandated by this section.

64C, §35 - Possession or transportation of unstamped cigarettes; penalty; arrest, search and seizure; forfeitures

[XX] Chapter 64C of the General Laws is hereby amended by striking out section 35, as appearing in the 2014 Official Edition, and inserting in place thereof the following section:

Section 35. Possession or transportation of unstamped cigarettes; penalty; arrest, search and seizure; forfeitures

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Whoever, not being a stamper or such other person as the commissioner may authorize in writing to possess or deliver or transport unstamped cigarettes, and not being a common carrier engaged in interstate commerce or a person in actual possession of invoices or delivery tickets meeting the requirements of section thirty-six, knowingly possesses or delivers or transports unstamped cigarettes in the commonwealth shall be punished as follows:

- (1) A violation involving four hundred or fewer cigarettes shall be punished by a fine of not more than two thousand five hundred dollars or by imprisonment in a house of correction for not more than one year, or both such fine and imprisonment;
- (2) A violation involving more than four hundred but fewer than thirty thousand cigarettes shall be punished by a fine of not more than fifty thousand dollars or by imprisonment in a house of correction for not more than two and one-half years or in state prison for not more than five years, or both such fine and imprisonment; ~~P=~~
- (3) A violation involving thirty thousand or more cigarettes shall be punished by a fine of not more than one hundred thousand dollars or by imprisonment in